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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/292,103	04/14/1999	DONALD R. GREEN JR.	4041L-000008/COA	3090

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EXAMINER

LE, LANA N

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/292,103

Applicant(s)

GREEN, DONALD R.

Examiner

Lana Le

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Regarding claim 2, applicant argued the cited reference, Gilhousen didn't disclose an emergency communication. However, as is obvious and notoriously well known to one of ordinary skill in the art, a call to an emergency number and a call to a non-emergency or any other number is still a voice call. The main critical idea of the cited reference, Gilhousen as well as the present invention is the ability of the dialed station to detect the voice call via positioning regardless of the kind of call or which type of number the person is dialing, even though Gilhousen did disclose that in the prior art, this type of positioning could be applied to emergency 911 calls (col 1, lines 15-21). Which number the person is dialing is irrelevant and not an essential point to the claimed invention. Both the reference and the cited reference, Gilhousen, the base station receives a call request in the claimed invention or as in the cited reference, the base station establishes a voice channel between the mobile station and the base station to process the initial voice request, in other words a voice communication channel must be set up when the mobile is sending the call request; and when the mobile is not detected by the base station in the cited reference, Gilhousen, the mobile then increases the power level to a certain maximum point as commanded by the base station and transmits a voice communication signal whose signal strength is re-evaluated by the base station or as in the claimed invention, "...determining if the received signal strength is sufficient to detect a position of the ...mobile unit; and

Art Unit: 2685

transmitting by a base station if the signal strength is not sufficient to detect a position...requesting the roving mobile communication unit to increase a transmission power....". The "normally allowed level" is a broad and indefinite term and could read on a level that can't be detected by the base station. The position of the mobile unit occurs after the initial call request in which a voice channel must have already been established. Therefore, the reference still reads on the claimed invention, and the rejection stands as set forth in the previous office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilhousen (US 5,943,014).

Regarding claim 2, Gilhousen discloses a method (fig. 4) for improving emergency communications between a base station and a roving mobile communication unit, comprising; receiving at a base station, a transmission 410

Art Unit: 2685

expressing communication request from a roving mobile communication unit (numeral block 420,430,440);

determining a received signal strength (strength of weakest signal at low power level) of said transmission from said roving mobile communication unit responsive to said transmission expressing a communication request (col 10, lines 3-19);

determining if said received signal strength is sufficient to detect a position of said roving mobile communication unit (col 10, lines 3-10; col 9, lines 54-62);

and transmitting by a base station if said received signal strength is not sufficient to detect a position of said roving mobile communication unit a message requesting said roving mobile communication unit to increase a transmission power of said roving mobile communication unit's transmission power beyond a level that is normally allowed for transmission in a non-emergency mode (col 10, lines 3-33). Gilhousen didn't specifically disclose the transmission from the mobile unit expresses an emergency communication request. However, as disclosed in the background of Gilhousen, the positioning service could be applied to Gilhousen's disclosure to detect emergency calls from mobile units (col 1, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the transmission request expresses an emergency communication request in order to have one of many common causes, i.e. to locate lost children, to locate someone in danger, or to locate vehicles as part of a dispatching system as a basis for a service that needs to determine a position of a mobile unit as soon as possible.

for a service that needs to determine a position of a mobile unit.

Art Unit: 2685

Regarding claim 4, Gilhousen et al further discloses a method as in claim 3, wherein said determining, and said using is performed by a base station controller that controls a plurality of base stations (col 9, lines 63-66).

Regarding claim 6, Gilhousen et al further discloses the method as in claim 3, wherein said received signal strength is estimated from an aspect of a received mobile communication unit transmission (col 10, lines 18-20).

Regarding claim 7, Gilhousen et al further discloses the method as in claim 6, wherein said determining and said using is performed by a base station controller that controls a plurality of base stations (col 9, lines 63-67).

Regarding claim 8, Gilhousen further discloses a method as in claim 2, further comprising carrying out a global position detection (GPS) to determine a position of said roving mobile communication unit (col 7, lines 43-46).

Regarding claim 9, Gilhousen et al further discloses a method as in claim 2, further comprising position detection of said roving mobile communication unit, by at least one of angle of arrival, or time delay or arrival (col 9, lines 47-56).

Regarding claim 10, Gilhousen discloses a base station apparatus for improving communications with a roving mobile communication unit, comprising:

a receiver that includes an element for receiving communication from a roving mobile communication unit (col 9, lines 38-42);

a transmitter operating to transmit to a roving mobile communication unit to adjust the power level of the mobile station (col 10, lines 12-15);

Art Unit: 2685

a controller in the power control system having data storage media therein, said controller adapted to receiving a transmission expressing a communication request and operable to determine a received signal strength (strength of weak signal at low power level) of said transmission (col 10, lines 3-19),

said controller further creating a message requesting a roving mobile communication unit to adjust the power level to be increased said roving mobile communication unit's transmission power beyond a level that is normally allowed (normal low power transmission level (col 10, lines 26-27) in order for the mobile to be sufficiently received by the base station, responsive to said transmission a message expressing a communication request received by said receiver, and controlling a transmitter to transmit said message to increase said roving mobile communication unit's transmission power (col 10, lines 3-33).

Gilhousen didn't specifically disclose the base receiving the transmission from the mobile unit expressing an emergency communication request. However, as disclosed in the background of Gihousen, the positioning service could be applied to Gilhousen's disclosure to detect emergency calls from mobile units (col 1, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the transmission request expresses an emergency communication request in order to have a rationale out of common situations, i.e. to locate lost children, to locate someone in danger, or to locate vehicles as part of a dispatching system for a service that needs to determine a position of a mobile unit.

Art Unit: 2685

Regarding claim 11, Gilhousen et al further discloses an apparatus as in claim 10, wherein said controller communicates with a plurality of roving mobile units (col 10, lines 45-48).

Regarding claim 12, Gilhousen et al further discloses an apparatus as in claim 10, further comprising:

inherent detection circuitry in said receiver, capable of measuring a received signal strength of a roving mobile communication unit transmission (col 10, lines 16-20); wherein said controller compares said measured received signal strength with a desired minimum value (weakest signal value) to determine whether or not to create, and direct transmission of, a message requesting an increase in said roving mobile communication unit's transmission power (col 10, lines 10-15).

Regarding claim 13, Gilhousen et al further discloses an apparatus as in claim 12 wherein said controller communicates with a plurality of roving mobile units (col 10, lines 40-48).

Regarding claim 14, Gilhousen et al further discloses an apparatus as in claim 12 wherein said received signal strength is estimated from an aspect of a received roving mobile unit transmission (col 10, lines 18-20).

Regarding claim 15, Gilhousen et al further discloses an apparatus as in claim 10, wherein said controller also- controls a global position satellite-based tracking of said roving mobile unit (col 7, lines 43-46).

Regarding claim 16, Gilhousen et al further discloses an apparatus as in claim 10, wherein said controller also controls position detection of said roving mobile

Art Unit: 2685

communication unit, by at least one of angle of arrival, or time delay or arrival (col 9, lines 45-53).

Regarding claim 17, Gilhousen et al discloses a method (fig. 4) of determining a position of a cellular handset, comprising:

receiving a communication call request from a cellular handset (col 9, lines 15-20); determining if said communication call request is sufficient to take some action related to said communication indication (col 10, lines 5-7, lines 17-22); if said communication indication is not sufficient, sending a command to said cellular handset that requests a power output of said cellular handset to increase beyond a power level normally used for communication (col 10, lines 12-27); and taking said action related to said emergency indication (col 10, lines 3-33). Gilhousen et al didn't further disclose an E-911 call request. However, as disclosed in the background of Gilhousen, the positioning service could be applied to Gilhousen's disclosure to detect emergency calls from mobile units (col 1, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the transmission request expresses an E-911 call request as one of many well known reasons why the calling unit needs to be positioned, i.e. to locate lost children, to locate someone in danger, or to locate vehicles as part of a dispatching system in order to have a basis for a service that needs to determine a position of a mobile unit as early as possible.

Regarding claim 18, Gilhousen et al further discloses a method as in claim 17, wherein said action is a positioning detection (col 9, lines 55-58).

Regarding claim 19, Gilhousen et al further discloses a method as in claim 18, further comprising carrying out a global positioning operation to determine said position (col 7, lines 43-46).

Regarding claim 20, Gilhousen et al further discloses a method as in claim 18, further comprising position detection of said roving mobile communication unit, by at least one of angle of arrival, or time delay or arrival (col 9, lines 45-53).

Regarding claim 21, Gilhousen et al further discloses a method as in claim 18, wherein said determining comprises analyzing a received roving mobile unit transmission to determine characteristics of a transmission (col 10, lines 5-7, lines 17-30).

Regarding claim 22, Gilhousen discloses the method of claim 2 wherein Gilhousen didn't specifically disclose the transmission is further defined as an E-911 call request. However, as disclosed in the background of Gilhousen, the positioning service could be applied to Gilhousen's disclosure to detect emergency calls or an E-911 call request from mobile units (col 1, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the transmission request expresses an E-911 call request as one of many well known reasons why the calling unit needs to be positioned, i.e. to locate lost children, to locate someone in danger, or to locate vehicles as part of a dispatching system in order to have a basis for a service that needs to determine a position of a mobile unit as early as possible.

Regarding claim 23, Gilhousen et al disclose the base station of claim 10, wherein Gilhousen didn't further disclose the transmission is further defined as an E-911

Art Unit: 2685

call request. However, as disclosed in the background of Gilhousen, the positioning service could be applied to Gilhousen's disclosure to detect emergency calls from mobile units (col 1, lines 15-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the transmission request expresses an E-911 call request as one of many well known reasons why the calling unit needs to be positioned, i.e. to locate lost children, to locate someone in danger, or to locate vehicles as part of a dispatching system in order to have a basis for a service that needs to determine a position of a mobile unit as early as possible.

Conclusion

This is a RCE of applicant's earlier Application No. 09/292,103. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2685

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lana Le whose telephone number is (703) 308-5836.

The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (703) 305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lana Le

February 17, 2004



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